

**THE LABOR COMMISSION
WORKERS' COMPENSATION ADVISORY COUNCIL**

**Wednesday, January 11, 2012 – 12:00 P.M.
Room 319, Heber M. Wells Bldg.
Salt Lake City, Utah**

The following Advisory Council members were in attendance:

Ralph Astorga, President, USWA Local 392
David Bird, Esq., Parsons Behle and Latimer
Dennis Lloyd, Workers Compensation Fund
K. Dawn Atkin, Esq., Atkin & Associates
Reo Castleton, President, SL Cnty Fire Dept Local 1696
Dave Davis, President, Utah Food Industry Association
Brian Kelm, Esq.
Sen. Karen Mayne
Jeff Rowley, Risk Manager, SL Cnty.
Tracy Klausmeier, Dept of Insurance for Brad Tibbitts

The following Advisory Council members were excused:

Rep. Mike Morley
Thomas Bingham, President, Utah Manufacturers Association
Edward Holmes, MD, Summit View Medical
Kathleen Bissell, Liberty Mutual - by phone
Richard J. Thorn, President/CEO, Associated General Contractors - Utah Chapter
Brandt Goble, Painters and Tapers Local 77

Others Present:

Alan Hennebold, Deputy Commissioner
Ron Dressler, Director, Division of Industrial Accidents, Labor Commission
Sara Danielson, Administrative Assistant, Labor Commission
David Lamb, Administration Director, Labor Commission
Sherrie Hayashi, Commissioner
Maggie Karpuk, NCCI
Elena Bensor, Labor Commission
Tonya Gallegos, Deputy Director, Division of Industrial Accidents, Labor Commission
Scott Squire, Utah State Tax Commission

WELCOME

Welcome –Commissioner, Sherrie Hayashi brought the meeting to order at 12:07 p.m.

1. Miscellaneous Business:

Commissioner Hayashi called for a motion to approve the minutes of the last Advisory Council meeting. **Jeff Rowley** moved to approve the minutes; **Brian Kelm** seconded the motion. Approval was unanimous.

2. Budget / Premium Surcharge Funds – David Lamb

David Lamb presented handouts for the budgets of UEF, ERF, Workplace Safety and the IARA. He reviewed the handouts and answered questions.

Scott Squire from the Tax Commission explained that the Tax Commission is moving from one system to another as of January 1, 2012, which caused an adjustment to be made in the Premium Surcharge Funds.

3. Workplace Safety Account – Elena Bensor

Elena Bensor informed the council that the Commission will be releasing the Grant Application information within the next couple of weeks. She answered questions regarding last year's grants and what was anticipated in the coming year. A handout of the timeline for grants was distributed.

4. NCCI State Advisory Update – Maggie Karpuk

Maggie Karpuk presented an update on the state of the workers' compensation system in Utah.

Sherrie Hayashi stated that Utah received an A grade from the Work Loss Data Institute's report card on Workers Compensation.

5. Electornic Data Interchange (EDI) Update – Ron Dressler

Ron Dressler reported that EDI is being implemented over the next 6 months with the 122 being the first report. Next year subsequent reports will be submitted as well. A review of the statutes and rules is being done to make them consistent with EDI practices. Currently the statute places the onus of reporting on the Employers; but EDI places the onus on the Carrier. If statute changes are necessary, they will be dealt with next year, in the mean time leniency will be extended.

6. Life Time Medicals – Jeff Rowley

Jeff Rowley presented a summary of the concerns regarding lift time medicals. Discussion was held.

7. Legislation – Alan Hennebold

Alan Hennebold stated that there were currently only 2 bills pending that directly affect the Commission and that they both are regarding the Workers Compensation Coverage Waiver process. The first by Sen. Mayne makes non-substantive changes to clarify that the Labor Commission is the entity that issues the waivers. And the second by Representative Morley does the same non-substantive changes but changes the burden of proof from clear and convincing to preponderance of evidence. The Labor Commission is taking a neutral position on these two bills.

Alan Hennebold also mentioned that Sen. Urquhart is still working on the exemption of family members in small businesses. Alan's sense is that this will not move forward.

We are aware that Media One may be pursuing legislation to exempt their delivery people from workers' compensation requirements.

Dawn Atkin mentioned that consideration needs to be given to establishing some sort of penalty for Insurance Carriers not paying on Commission orders within 30 days.

Sen. Mayne stated that she is working on legislation regarding payment of medical bills while workers compensation coverage is being determined. The problem is that private insurance will not pay when there is a possibility that the injury is work related even when the claim is in dispute. The current version of the legislation would give the employee the option of having their private insurance pay and then when the workers compensation claim is decided, either the workers compensation insurance would reimburse the private insurance or the bills would have been paid in a timely manner.

Commission Hayashi stated the **Mark Medcalf**, the collections attorney for Industrial Accidents had his first year of collecting \$1,000,000.00.

Meeting adjourned at 2:10 pm.